

### **REMARKS**

Entry of the above amendments is respectfully requested. Claims 1, 3, 5, 9, 10, 16-20, 23, 30 and 31 are amended; claims 6, 7, and 8 are cancelled; and claims 36-38 have been added. Claims 1-5 and 9-38 are now pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks that follow.

#### **1. Objections to the Specification**

In the Office Action the Examiner has objected to the specification as including a trademark that is not capitalized or accompanied by generic terminology.

Applicant respectfully traverses the Examiner's objection to the specification. More specifically, with this response applicant has amended the paragraph of the specification beginning on page 17, line 30, to state, "[a]fter the cutting insert 2 has been adjusted to the desired final position, the final position is fixed by tightening the tension screw 40 on the TORX® or other 6-point star-shaped pattern receptacle 41."

As a result, applicant believes that it has properly identified the trademark and included the necessary generic terminology. Applicant respectfully requests that the Examiner withdraw the objection the specification.

#### **2. Claim Objections**

In the Office Action the Examiner has objected to claims 3 and 6 as including certain informalities that require amendment.

With this response applicant has amended claims 3 and 6 as specified by the Examiner. As a result, applicant believes that all informalities in the claims have been removed, and respectfully requests that the Examiner withdraw the objection the claims.

### **3. Rejections of Claims**

#### **a. Rejections under 35 U.S.C. § 112, second paragraph**

In the Office Action the Examiner has rejected claims 5, 16 and 23-35 under 35 U.S.C. Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant respectfully traverses the Examiner's rejections to claims 5, 16 and 23-35 as being indefinite. More specifically, in regards to the Examiner's rejection of claims 23 and 30, with this response applicant has amended claims 23 and 30 in a manner which clearly places them in dependent form. Claims 23 and 30 have been amended to remove repeated structure previously recited in independent claim 1 from which they depend. The amendments to these claims have been made for clarification purposes, but to render the claims definite for proper examination by the Examiner. As a result, applicant believes that each of claims 23 and 30 as well as dependent claims 24-29 (dependent on claim 23) and 31-32 (dependent on claim 30) are now definite and respectfully requests that the Examiner withdraw the rejections to claims 23-32.

The Examiner also rejects claim 5 as being indefinite because it recites a broad range followed by a narrow range. Applicant has amended claim 5 to provide proper clarity. Claim 5 now recites a wedge angle ( $\alpha_1$ ;  $\alpha_3$ ;  $\alpha_6$ ) of about between 1° and 50°. New claim 37 (dependent on amended claim 1) recites the narrower range of about 5° and 25°. As a result, applicant believes that claim 5 is now definite and respectfully requests that the Examiner withdraw the rejection to claim 5.

The Examiner also rejects claim 16 as being indefinite because it lacks antecedent basis for the limitations "adjustment wedge angle" and "actuation wedge angle." Applicant has amended claims 16 to provide proper antecedent basis and respectfully requests that the Examiner withdraw this rejection of claim 16.

Finally, the Examiner rejects claim 30 as being indefinite because it recites “particularly a tension screw.” Applicant has amended claim 30 to delete this limitation and therefore respectfully requests that the Examiner withdraw the rejection to claim 30.

**b. Rejections Under 35 U.S.C. Section 102(b)**

In the Office Action the Examiner has rejected claims 1, 2, 3, 6, 7, 21, 22 and 29 under 35 U.S.C. Section 102(b) as being anticipated by *Vig*, U.S. Patent No. 4,602,899 (the ‘899 patent).

Applicant respectfully traverses the Examiner’s rejections to claims 1, 2, 3, 6, 7, 21, 22 and 29 based on the ‘899 patent. More specifically, with this response applicant has amended claim 1 to include the limitations of claim 8 (including those of claims 6 and 7) indicated as allowable by the Examiner. As a result, applicant believes that the subject matter of amended claim 1, and claims 2, 3, 21, 22 and 29 that depend from claim 1, is neither shown or disclosed by the ‘899 patent and is therefore allowable. Claims 6 and 7 have been cancelled with this response and therefore the rejection of claims 6 and 7 is considered moot. Therefore, applicant respectfully requests that the Examiner withdraw the rejection to claims 1, 2, 3, 21, 22 and 29.

**b. Rejections Under 35 U.S.C. Section 103(a)**

The Examiner rejected claims 23-25, 27, 28 and 35 under 35 U.S.C. 103(a) as being unpatentable over the ‘899 patent in view of U.S. Patent No. 4,592,680 to *Lindsay* (the ‘680 patent). Applicant respectfully traverses the Examiner’s rejections to claims 23-25, 27, 28 and 35 based on the ‘899 and ‘680 patents. Each of claims 23-25, 27, 28 and 35 depend either directly or indirectly from amended claim 1. Amended claim 1 includes all of the limitations of claims 6, 7 and 8 and was indicated as allowable by the Examiner. As such, withdrawal of the rejections is respectfully requested.

#### **4. Newly Presented Claims**

Dependent claim 36 is believed to be presented in condition for allowance because it not only independently recites patentable subject matter, but also ultimately depends from an independent claim (claim 1) that is itself believed presented in condition for allowance as discussed above.

Independent claims 37 and 38 are also believed presented in condition for allowance and their allowance is respectfully requested. Independent claims 37 and 38 are similar in scope to claim 1 which was indicated as allowable. None of the references of record, including the '899 and '680 patents, disclose, teach or suggest the combination of an adjustment wedge accommodated in the cutter support in a form-fitted and displaceable manner, which can be actuated in a direction (V) that extends essentially parallel to the seat surface, a pressure screw for actuating the adjustment wedge, and an actuation wedge for actuating the adjustment wedge whereby the actuation wedge is at an angle to the adjustment wedge, and the adjustment wedge and the actuation wedge are formed as recesses on a double wedge pin. Notably, new claim 37 generally corresponds to allowed claim 1 in the parallel European proceedings (EP 04 001 523.2 / 1 447 462).

#### **CONCLUSION**

It is believed that each of claims 1-5 and 9-38 are in compliance with 35 USC Sections 112, 102 and 103, and as such, each defined patentable subject matter. A Notice of Allowance is therefore believed to be in order and the same is respectfully requested.

No fees are believed to be payable with this communication. Nevertheless, should the Examiner consider any other fees to be payable in conjunction with this or any future communication, the Director is authorized to charge any required fees associated with this or any other communication, or credit any overpayment, to Deposit Account No. 50-1170.

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The Examiner is invited to contact the undersigned by telephone if it would help expedite the prosecution and allowance of this application.

Respectfully submitted,

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